

## Chenery, Taylor

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**From:** Sweet, Kara (USATNM) <Kara.Sweet@usdoj.gov>  
**Sent:** Saturday, July 9, 2022 9:24 AM  
**To:** Chenery, Taylor; Roark, Brian; Salcido, Robert; Seth Hyatt; Sample, Taylor M.; Webber, Hannah E.  
**Cc:** Jerry Martin; Bryan Vroon; Lopes, Liz (USATNM); Seth Hyatt; Shuford, Wynn (USATNM)  
**Subject:** Production of Non-Privileged Documents Previously Withheld as Privileged

**Importance:** High

Brian,

In the investigation, Methodist initially withheld documents relating to PwC, HAI and other consultants or third parties retained to provide business advice and FMV opinions that are not privileged. Subsequently, when I expressly requested it, you produced the PwC report. In the production, I have located some, but not all, of the FMV opinions, and not always in Methodist's production. From what I can tell, Methodist's and its counsel's correspondence with PwC and the valuators have not been produced, unless West also was copied. As I am sure you know, having consultants or third parties retained by counsel does not insulate them from disclosure, particularly with FMV opinions.

Yet, the attached privilege log has a number of communications and documents on it that are not privileged. See, e.g., pp. 2, 3, 8, 9, 20 for the ones with HAI specifically.

Notwithstanding that Methodist has not asserted any safe harbors and the United States contends that Methodist otherwise has no basis to argue that the FMV opinions somehow absolve any kickback, to the extent Methodist intends to rely on any of these FMV opinions, the opinions, as well as any correspondence relating to these opinions, must be produced. In particular, anything relating to HAI must be produced before we depose Scott Safriet.

Given that HAI has not retained these documents, to the extent that Jones Day, as counsel for Methodist, had communication with HAI that Methodist was not copied on, these documents also need to be produced.

Please let me know when these will be produced or if I will need to go to Judge Holmes.

Kara